

AMENDED IN SENATE MAY 2, 2012
AMENDED IN SENATE MARCH 27, 2012

SENATE BILL

No. 1349

Introduced by Senator Yee

February 24, 2012

An act to add Chapter 2.5 (commencing with Section 99120) to Part 65 of Division 14 of Title 3 of the Education Code, and to add Chapter 2.5 (commencing with Section 980) to Part 3 of Division 2 of the Labor Code, relating to social media privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Yee. The Social Media Privacy Act: postsecondary education and employment.

Existing law establishes and sets forth the missions and functions of the public and independent institutions of postsecondary education in the state.

Existing law generally regulates the conduct of employers in the state.

This bill would prohibit a postsecondary educational institution and an employer, whether public or private, from requiring, or formally requesting in writing, a student or an employee, or a prospective student or employee, to disclose the user name ~~or~~ *and* account password for a personal social media account, *as defined*, or to otherwise provide the institution or employer with access to any content of that account, *except as provided*.

The bill would prohibit a postsecondary educational institution and an employer from threatening a student or employee with or taking specified pecuniary actions for refusing to disclose permissibly requested information related to their personal social media account.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Social Media Privacy Act.

3 SEC. 2. Chapter 2.5 (commencing with Section 99120) is added
4 to Part 65 of Division 14 of Title 3 of the Education Code, to read:

5
6 CHAPTER 2.5. SOCIAL MEDIA PRIVACY
7

8 99120. As used in this chapter, “social media” means an
9 electronic medium where users may create, share, and view
10 user-generated content, including uploading or downloading videos
11 or still photographs, blogs, video blogs, podcasts, instant messages,
12 *e-mail, online services or accounts*, or Internet Web site profiles
13 or locations.

14 99121. ~~A~~(a) *Except as provided for in subdivision (b), a public*
15 *or private postsecondary educational institution shall not require,*
16 *or formally request in writing, a student or prospective student to*
17 *disclose the user name or and account password for a personal*
18 *social media account or to otherwise provide the institution with*
19 *access to any content of that account.*

20 (b) (1) *A public or private postsecondary educational institution*
21 *may request, but not require, a student to provide the institution*
22 *with access to a personal social media account to aid in a formal*
23 *investigation conducted by the institution regarding specific*
24 *allegations of harassment, discrimination, intimidation, or potential*
25 *violence.*

26 (2) *A public or private postsecondary educational institution*
27 *shall not suspend, expel, discipline, threaten to take any of those*
28 *actions, or otherwise penalize a student in any way for refusing*
29 *to disclose the requested information related to their personal*
30 *social media account.*

31 SEC. 3. Chapter 2.5 (commencing with Section 980) is added
32 to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 2.5. SOCIAL MEDIA PRIVACY

980. As used in this chapter, “social media” means an electronic medium where users may create, share, and view user-generated content, including uploading or downloading videos or still photographs, blogs, video blogs, podcasts, instant messages, *e-mail*, *online services or accounts*, or Internet Web site profiles or locations.

981. ~~An~~ *(a) Except as provided for in subdivision (b), an employer, whether public or private, shall not require, or formally request in writing, an employee or prospective employee to disclose the user name or and account password for a personal social media account or to otherwise provide the employer with access to any content of that account.*

(b) (1) An employer, whether public or private, may request, but not require, an employee to provide the employer with access to a personal social media account to aid in a formal investigation conducted by the institution regarding specific allegations of harassment, discrimination, intimidation, or potential violence.

(2) An employer, whether public or private, shall not discharge, discipline, threaten to discharge or discipline, or otherwise penalize an employee in any way for refusing to disclose the requested information related to their personal social media account.